

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCE

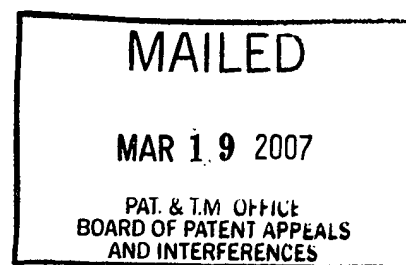
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Ex parte ERIC ADLER, JAMES S. DUNN, JOSEPH LADANZA  
and JENIFER E. LARY

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Application 10/697,012

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on November 29, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

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March 10, 2006, appellants filed an Appeal Brief. A review of the file reveals that the "Summary of Claimed Subject Matter" does not map the independent claims, claims 20, 24 and 26, to the specification, as set forth in 37 CFR § 41.37(c)(1)(v) which states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Proper correction of the Appeal Brief is required.

It should be noted that the Reply Brief filed on August 2, 2006, was not filed timely. This matter needs to be taken in consideration.

Accordingly, it is ORDERED that the application is return to the Examiner to:

- 1) hold the Appeal Brief filed on March 10, 2006, defective;

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- 2) notify appellant to file a supplemental Appeal Brief compliance with 37 CFR § 41.37;
- 3) if necessary, vacate the Examiner's Answer mailed June 1, 2006, to consider the supplemental Appeal Brief and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES



PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(571)272-9797

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cc: Connolly Bove Lodge & Hutz LLP  
P.O. box 2207  
Wilmington, DE 19899-2207